THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.10935 of 2005

Between:

A.Satyanarayana Murthy.

.. PETITIONER

and

A.P.S.F.C. and others.

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RESPONDENTS

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ORDER:

It is the case of the petitioner that he is the owner of Ac.7-00 gts. of

Coconut Garden situated at Chintapalli village, Vizianagaram District, and he has given the said property as collateral security in favour of M/s.Surya Roofings Private Limited, who obtained term loan of 78.80 lakhs in the year 1998. It is stated that the said principal debtor paid a sum of Rs.56,00,000/- so far and the petitioner paid a sum of Rs.1,00,000/- on 29-03-2004. The respondent Corporation without issuing any notice whatsoever, with regard to sale of the collateral security property, the said property of the petitioner has been sold to the 3rd respondent. As per the public auction notice, dated 05-03-2005, the value of the said Coconut Garden is Rs.10,30,000/-. But, however, no notice has been given to the petitioner before proceeding under Section 29 of State Financial Corporations Act, 1951 (for short "the Act") for sale of the said collateral security property.

A counter has been filed stating that an amount of Rs.65.62 lakhs was disbursed to the principal debtor from time to time. Though the project commenced its operation in the month of May, 2000, the unit could not run on the commercial basis for want of working capital requirement. Therefore, the principal debtor committed default in payment of amount to the respondent Corporation. As the loanee failed to clear the arrears, inspite of repeated notices, the respondent Corporation issued recall-cum-sale notice on 20-06-2003 to the principal debtor as well as the persons, who have provided collateral security, including the petitioner herein, duly informing them that further action will be taken to proceed against the mortgaged properties as well as collateral security property, if the due amount is not cleared before 05-07-2003. But, neither the principal debtor nor the persons, who have offered collateral security, have cleared the dues. Therefore, the collateral security property was advertised for sale in the daily news paper on 23-03-2004 and on 10-09-2004 and again

on 16-10-2004. At that time, some other persons, who have given collateral security, came forward to pay the amount equivalent to the value of the collateral security property.

In this regard, the learned counsel for the petitioner stated that the petitioner made a representation, dated 29-08-2004, stating that the principal debtor requested for one time settlement and in this regard the petitioner paid a sum of Rs.1,00,000/-. But, the said representation goes to show that the petitioner never come forward to pay the value of the collateral security property for release of the same in his favour.

The learned counsel for the respondent Corporation further stated that the respondent Corporation has not released the said collateral security property in favour of the petitioner, as he has not paid the value of the said collateral security property. Therefore, another advertisement, dated 05-03-2005, was issued for sale of the said collateral security property. Pursuant to the said advertisement, the 3rd respondent herein submitted an offer and after due negotiations with him, the offer of the 3rd respondent for Rs.10.20 lakhs has been accepted by the respondent Corporation. Thus, it is stated that the sale was confirmed in favour of the 3rd respondent on 06-04-2005 and the property was delivered on 25-04-2005.

In view of the aforesaid facts and circumstances of the case, it is to be seen that the petitioner has not questioned the said sale proceedings. However, under Section 29 of the Act, it is open for the respondent Corporation to proceed against the principal debtor as well as the properties of the collateral security holders, who have mortgaged properties, as the liability of the collateral security holders is also equal to that of the principal debtor. Therefore, the petitioner is also equally liable to pay the loan amount.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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24-04-2007

Prv